(25)

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**DIVISION BENCH**

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**CORAM:** **HON'BLE SHRI JAGDISH BHALLA, Ag.CJ. &**
**HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.**

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**M.A.(C) No. 657 of 2007**

**APPELLANTS/ CLAIMANTS**

1. Smt. Mathura Bai Widow of Late Rohit Kumar Deshmukh aged about 29 years.
2. Saurabh Kumar S/o. Late Rohit Kumar Deshmukh aged about 13 years.
3. Subham Deshmukh S/o. Late Rohit Kumar Deshmukh aged about 5 years.

   Both 2 and 3 are Minor Guardian Through Mother Smt. Mathura Bai Widow of Late Rohit Kumar Deshkumh.
4. Chhotu Ram S/o. Bisahu Ram Deshmukh aged about 65 years.
5. Smt. Haro Bai W/o. Chhotu ram aged about 55 years

   All 1 to 5 R/o. Village : Khapparbada, Police Station : Anda, Tahsil & Distt. Durg (C.G.)

**VERSUS**

**RESPONDENTS**

1. Mohd. Aslam S/o. Mohd. Ramjan aged about 36 years R/o. Luchkipara Durg, Tahsil & Distt. Durg (C.G.)
2. Mohd. Salim S/o. Mohd. Sarfuddin r/o. Ward No. 7, Sakiyapara Durg, Tahsil & Distt. Durg (C.G.)
3. National Insurance Co. Ltd., Second Floor Mobin Mahal G.E. Road P.B. No. 122 Raipur (C.G.)

Appeal under Section 173 of Motor Vehicle Act

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Present : Shri Jitendra Gupta, counsel for the appellants.

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**ORAL ORDER**
**(Passed on 26th June, 2007)**

The following oral order of the Court was passed by

**Dilip Raosaheb Deshmukh, J.**

(26)

Heard.

The sole point urged by learned counsel for the appellants in this appeal for enhancement of compensation in a case of accidental death of one Rohit Kumar Deshmukh aged 34 years is that the Tribunal ought to have assessed the monthly income of the deceased at Rs.4,500/- instead of Rs.3,000/-. However upon perusal of the impugned award we find that one Rajendra Prasad Deshmukh who was the proprietor of Deshmukh Traders was examined by the claimants and produced documents. However, in the cross examination, he admitted that no attendance register was maintained by him and that the deceased was a near relative. It was also admitted by the said witness that except Rohit Kumar Deshmukh, he has not mentioned about the disbursement of salary to other workers. In this view of the matter we are of the considered opinion that the learned Tribunal was wholly justified in taking the monthly income of the deceased at Rs.3,000/- and assessing loss of dependency on that basis.

Under conventional heads the Tribunal ought not to have awarded a sum of Rs.25,000/- under the head of loss of expectancy of life to the appellants, while awarding total compensation at Rs.4,42,500/-. In this view of the matter, we are of the considered opinion that the Tribunal has already awarded an excess of what it ought to have awarded as compensation. Accordingly, we find no merit in this appeal. It is dismissed at the stage of admission itself.

**Sd/-**
**Ag. Chief Justice**

**Sd/-**
**Dilip Raosaheb Deshmukh**
**Judge**

subbu